

Critical phases and statutes applicable to:

Division of Parole and Probation

30 Total Citations

A victim of crime shall be treated by agents of the State with dignity, respect and sensitivity during all phases of the criminal justice process

Constitution of Maryland, Declaration of Rights, Article 47(a)

Definitions

5 Specific Statutory Provisions

Monetary Damages -- Restitution

- *Definition of crime as it relates to restitution*

Criminal Procedure Article, § 11-601(d)

(d) (1) "Crime" means an act committed by a person in the State that is a crime under:

- (i) common law;
- (ii) § 109 of the Code of Public Local Laws of Caroline County;
- (iii) § 4-103 of the Code of Public Local Laws of Carroll County;
- (iv) § 8A-1 of the Code of Public Local Laws of Talbot County; or
- (v) except as provided in paragraph (2) of this subsection, the Annotated Code.

(2) "Crime" does not include a violation of the Transportation Article that is not punishable by a term of confinement.

- *Definition of victim as it relates to restitution*

Criminal Procedure Article, § 11-601(j)

(j) "Victim" means:

- (1) a person who suffers personal injury or property damage or loss as a direct result of a crime or delinquent act; or
- (2) if the person is deceased, the personal representative of the estate of the person.

- *Definition of victim and victim's representative as it relates to restitution*

Criminal Procedure Article, § 11-621(d)&(e)

(d) "Victim" means a person who suffers personal injury, death, or property loss as a direct result of crime.

(e) "Victim's representative" includes the personal representative of the estate of a deceased victim and a beneficiary under a wrongful death action.

Parole and Probation

- *Definition of victim as it relates to the Division of Parole and Probation*

Correctional Services Article, § 7-805(a)

(a) In this section, "victim" means an individual who suffers personal physical injury or death as a direct result of a crime or, if the victim is deceased, a designated family member of the victim.

Definitions

Sexual Assault/Prohibited Exposure

- *Definition of victim as it relates to HIV exposure/testing*

Criminal Procedure Article, § 11-107(f) & (g)

- (f) (1) "Victim" means the victim of a prohibited exposure.
 - (2) "Victim" includes:
 - (i) a law enforcement officer who is exposed to HIV while acting in the performance of duty; and
 - (ii) a paid or volunteer firefighter, an emergency medical technician, or rescue squad member who is exposed to HIV while acting in the performance of duty.
 - (iii) a forensic scientist, working under the direction of a law enforcement agency, who is exposed to HIV while acting in the performance of duty
 - (g) "Victim's representative" means:
 - (1) the parent of a victim who is a minor;
 - (2) the legal guardian of a victim; or
 - (3) the person authorized to give consent for the victim under § 5-605 of the Health-General Article.
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The statutes below generally apply to all critical phases and should be considered throughout the entire Criminal Justice process.

3 Specific Statutory Provisions

Fair Treatment

- *Guidelines - Definition of victim as it relates to fair treatment*
Criminal Procedure Article, § 11-1001(e)
(e) "Victim" means a person who suffers direct or threatened physical, emotional, or financial harm as a result of a crime.
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Miscellaneous

- *Receive help, care and support provided by the State*
Criminal Procedure Article, § 11-802
(a) The General Assembly finds:
 - (1) that many innocent persons suffer personal physical or psychological injury or die because of crimes or delinquent acts or in their efforts to prevent them or apprehend persons committing or attempting to commit them;
 - (2) that these persons or their dependents may as a result suffer disability, incur financial hardships, or become reliant on public assistance; and
 - (3) that there is a need for government financial assistance for these victims.
(b) The policy of the State is that help, care, and support be provided by the State, as a matter of moral responsibility, for these victims.
 - *Applicability of guidelines*
Courts and Judicial Proceedings Article, § 3-8A-34
The guidelines provided under § 11-1003 of the Criminal Procedure Article apply to victims and witnesses of delinquent acts.
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In order to preserve and protect a victim's right to justice, each victim of a crime shall have the rights outlined below during critical stages of the criminal justice process

Sentencing/Disposition

4 Specific Statutory Provisions

Be Heard

- *Consideration of Victim Impact Statement in presentence/predisposition investigation; Victim Impact Statement must be included in PSI/PDI*

Criminal Procedure Article, § 11-402(a)

- (a) A presentence investigation that the Division of Parole and Probation completes under § 6-112 of the Correctional Services Article or a predisposition investigation that the Department of Juvenile Services completes shall include a victim impact statement if:

- (1) the defendant or child respondent caused physical, psychological, or economic injury to the victim in committing a felony or delinquent act that would be a felony if committed by an adult; or
- (2) the defendant caused serious physical injury or death to the victim in committing a misdemeanor.

- *Contents of Victim Impact Statement*

Criminal Procedure Article, § 11-402(e)&(f)

- (e) A victim impact statement for a crime or delinquent act shall:

- (1) identify the victim;
- (2) itemize any economic loss suffered by the victim;
- (3) identify any physical injury suffered by the victim and describe the seriousness and any permanent effects of the injury;
- (4) describe any change in the victim's personal welfare or familial relationships;
- (5) identify any request for psychological services initiated by the victim or the victim's family;
- (6) identify any request by the victim to prohibit the defendant or child respondent from having contact with the victim as a condition of probation, parole, mandatory supervision, work release, or any other judicial or administrative release of the defendant or child respondent; and
- (7) contain any other information related to the impact on the victim or the victim's family that the court requires.

- (f) If the victim is deceased, under a mental, physical, or legal disability, or otherwise unable to provide the information required under this section, the information may be obtained from the victim's representative.

- *Inclusion of Victim Impact Statement in Pre-sentence Investigation*

Correctional Services Article, § 6-112(b)

- (b) (1) If a circuit court is satisfied that a presentence investigation report would help the sentencing process, the court may order the Division to complete a report before:
 - (i) sentencing a defendant who is convicted of a felony or of a misdemeanor that resulted in serious physical injury or death to the victim to the jurisdiction of the Division of Correction; or
 - (ii) referring a defendant to the Patuxent Institution.
- (2) The party that requests the report has the burden of establishing that the investigation should be ordered.
- (3) If required under § 11-402 of the Criminal Procedure Article, the report shall include a victim impact statement.
- (4) If the defendant has been convicted of a felony or misdemeanor that is related to the defendant's membership in a criminal gang, as defined in § 9-801 of the Criminal Law Article, the report may include information regarding the group affiliation of the defendant.

Sentencing/Disposition

Be Heard

- *Inclusion of Victim Impact Statement in Pre-sentence Investigation - Death penalty and life without parole cases*

Correctional Services Article, § 6-112(c)

- (c) (1) The Division shall complete a presentence investigation report in each case in which the death penalty or imprisonment for life without the possibility of parole is requested under § 2-202 or § 2-203 of the Criminal Law Article.
- (2) The report shall include a victim impact statement as provided under § 11-402 of the Criminal Procedure Article.
- (3) The court or jury before which the separate sentencing proceeding is conducted under § 2-303 or § 2-304 of the Criminal Law Article shall consider the report.
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Post-conviction/Post-disposition

18 Specific Statutory Provisions

Be Heard

- *Submit updated Victim Impact Statement*
Correctional Services Article, § 7-801(c)(1)
(c) (1) Not later than 30 days after the date of the Department's notice under subsection (b) of this section, the victim of a violent crime may submit to the Department a written request that the Division of Parole and Probation be required to complete an updated victim impact statement.
- *Responsibility of the Division of Parole and Probation to obtain updated Victim Impact Statement*
Correctional Services Article, § 7-801(c)(2)
(c) (2) If the victim submits a request as authorized by paragraph (1) of this subsection, the Department shall direct the Division of Parole and Probation to:
 - (i) complete the updated statement at least 30 days before the parole release hearing; and
 - (ii) send promptly the updated victim impact statement to the Commission.

Monetary Damages -- Restitution

- *Administration of payment*
Criminal Procedure Article, § 11-607(b)
(b) (1) The restitution obligor shall make restitution to the Division or the Department of Juvenile Services under the terms and conditions of the judgment of restitution.
(2) The Division or the Department of Juvenile Services:
 - (i) shall keep records of payments or return of property in satisfaction of the judgment of restitution;
 - (ii) shall forward property or payments in accordance with the judgment of restitution and Part I of this subtitle to:
 - 1. the victim;
 - 2. the Department of Health and Mental Hygiene or other governmental unit; or
 - 3. the third-party payor; and
 - (iii) may require the restitution obligor to pay additional fees not exceeding 2% of the amount of the judgment of restitution to pay for the administrative costs of collecting payments or property.
- *Penalty for failure to pay restitution*
Criminal Procedure Article, § 11-607(c)
(c) (1) Whenever an obligor's restitution payment, as ordered by the court or established by the Division, is overdue, the Division or the Department of Juvenile Services shall:
 - (i) notify the court; and
 - (ii) if an earnings withholding order is not in effect and the restitution obligor is employed, request an earnings withholding order.
 (2) The court may hold a hearing to determine whether the restitution obligor is in contempt of court or has violated the terms of the probation.
(3) If the court finds that the restitution obligor intentionally became impoverished to avoid payment of the restitution, the court may find the restitution obligor in contempt of court or in violation of probation.

Post-conviction/Post-disposition

Monetary Damages -- Restitution

- *Considered abandoned property if victim not located*
Criminal Procedure Article, § 11-614(b)
(b) If a victim cannot be located, all money collected from a judgment of restitution shall be treated as abandoned property under Title 17 of the Commercial Law Article.

- *Referral to Central Collection when overdue*
Criminal Procedure Article, § 11-616(a)
(a) The Division or the Department of Juvenile Services:
 (1) in addition to other actions authorized under Part I of this subtitle, may refer an overdue restitution account for collection to the Central Collection Unit; and
 (2) if probation or other supervision is terminated and restitution is still owed, shall refer the overdue restitution account for collection to the Central Collection Unit.

- *Consent required prior to settlement of restitution judgment*
Criminal Procedure Article, § 11-616(c)
(c) (1) The Central Collection Unit may not compromise and settle a judgment of restitution unless:
 (i) the Division or the Department of Juvenile Services obtains the consent of the victim; or
 (ii) the court orders otherwise because a victim cannot be located.
 (2) The Division or the Department of Juvenile Services shall contact the victim to determine whether the victim consents to compromise and settle a judgment of restitution.

- *Satisfaction of judgment of restitution*
Criminal Procedure Article, § 11-616(d)
(d) If complete restitution and interest have been paid or a judgment of restitution has been compromised and settled as provided in subsection (c) of this section, the Division, the Department of Juvenile Services, or the Central Collection Unit immediately shall notify:
 (1) the court that issued the judgment by filing the statement as provided under § 11-608(c) of this subtitle that the judgment has been satisfied; and
 (2) the last known employer of a restitution obligor to terminate an earnings withholding order issued under § 11-617 of this subtitle.

- *Determination of overdue restitution*
Criminal Procedure Article, § 11-616(e)
(e) (1) Restitution is overdue if the restitution or a restitution payment is not paid:
 (i) by the date that the court orders; or
 (ii) if no date is ordered, by the later of:
 1. the date the Division or the Department of Juvenile Services directs the restitution obligor to pay restitution or make a restitution payment; or
 2. 30 days after the court enters a judgment of restitution.
 (2) If restitution is overdue, the amount of the arrearage is the amount of restitution ordered and any interest allowed by law, minus any amount previously paid or received under the judgment of restitution.

Post-conviction/Post-disposition

Monetary Damages -- Restitution

- *Receive restitution from proceeds of civil litigation filed by inmate*
Courts and Judicial Proceedings Article, § 5-1006
 - (a) (1) Any compensatory or punitive damages awarded to a prisoner in connection with a civil action shall be paid directly to satisfy any outstanding restitution order or child support order pending against the prisoner.
 - (2) If there are multiple orders of restitution or child support pending against the prisoner, any compensatory damages shall be distributed against those orders on a pro rata basis.
 - (3) (i) The State, the Department, and the Division of Correction may not be liable for any failure to credit an award as provided in this section.
 - (ii) The State, the Department, the Division of Correction, and any county or municipality, through any authorized employee or official, may reclaim any money erroneously credited to a prisoner without judicial action in order to comply with this section.
- (b) If a prisoner is awarded compensatory or punitive damages for a civil action, the prisoner's custodian shall notify, in writing, the victim or victims of the crime for which the prisoner is incarcerated and the recipient or recipients of any child support obligation for which the prisoner is responsible.

Notification

- *Receive notice of parole violation*
Criminal Procedure Article, § 11-505(c)(1)
 - (c) (1) Whenever a person who was convicted of a violent crime as defined in § 7-101 of the Correctional Services Article is found guilty of violating a condition of parole, the Department shall notify the victim or victim's representative as provided under § 7-804 of the Correctional Services Article.
- *Receive notice when offender authorized to leave state*
Correctional Services Article, § 6-202(c)(2)
 - (c) (2) Ensure an opportunity for input and timely notice to victims and to jurisdictions where defined offenders are authorized to travel or to relocate across state lines.
- *Receive advanced notice of release, escape, transfer, death; Notice of issuance of warrant/subpoena for offender*
Correctional Services Article, § 7-505
 - (a) At least 60 days before the day that an inmate is scheduled to be released on mandatory supervision, the Division of Parole and Probation and the Division of Correction shall perform the same duties that are performed for a parole release.
 - (b) If an inmate who was convicted of a violent crime is released on mandatory supervision and the victim made a written request for notification under § 7-801(b)(1)(ii) of this title or if the victim or the victim's representative filed a notification request form under § 11-104 of the Criminal Procedure Article, the Department shall notify the victim or victim's representative:
 - (1) if a warrant or subpoena is issued by the Commission for an alleged violation of a condition of mandatory supervision;
 - (2) if the individual has been found guilty or not guilty of violating a condition of mandatory supervision; and
 - (3) of any punishment imposed for the individual's violation of a condition of mandatory supervision.

Post-conviction/Post-disposition

Notification

- *Receive notice of issuance of warrant/subpoena for offender*

Correctional Services Article, § 7-804

If an individual was convicted of a violent crime and the victim made a written request for notification under § 7-801(b)(1)(ii) of this subtitle or if the victim or the victim's representative filed a notification request form under § 11-104 of the Criminal Procedure Article, the Department shall notify the victim or the victim's representative:

- (1) that a warrant or subpoena was issued by the Commission for the individual's alleged violation of a condition of parole;
- (2) that the individual has been found guilty or not guilty of violating a condition of parole; and
- (3) of the punishment imposed on the individual for violating a condition of parole.

- *Designate representative to receive notice*

Correctional Services Article, § 7-805(g)

(g) The victim may designate in writing to the Department the name and address of a representative to receive notice for the victim.

Notification - Mandatory Supervision

- *Receive notice if offender found guilty of violation of a condition of mandatory supervision*

Criminal Procedure Article, § 11-505(e)(1)

(e) (1) Whenever a person convicted of a crime of violence is found guilty of violating a condition of mandatory supervision, the Department shall notify the victim or victim's representative as provided under § 7-505(b) of the Correctional Services Article.

- *Receive notice of issuance of warrant/subpoena for offender - alleged violation of condition of parole*

Criminal Procedure Article, § 11-505(e)(2)

(e) (2) Whenever a warrant or subpoena is issued for a person convicted of a violent crime as defined in § 7-101 of the Correctional Services Article for an alleged violation of a condition of mandatory supervision, the Department shall notify the victim or victim's representative as provided under § 7-804 of the Correctional Services

Notification - Probation

- *Notification of issuance of warrant/subpoena for offender for alleged violation of condition of probation*

Criminal Procedure Article, § 11-507

The Department or the Department of Juvenile Services shall notify the victim or victim's representative of an alleged violation of a condition of probation whenever:

- (1) a warrant, subpoena, or writ of attachment is issued for the alleged violation for a person who was convicted of a violent crime or who was adjudged to have committed a delinquent act that would be a violent crime if committed by an adult; and
- (2) a victim of the crime or delinquent act or a victim's representative has submitted a written request to the Department for notification or has submitted a notification request form under § 11-104 of this title.